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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/065,997 | 12/09/2002 | Fredric T. Cuddy | 314200.132 | 6673 |

26984 7590 04/15/2004

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EXAMINER

FULTON, CHRISTOPHER W

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
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2859

DATE MAILED: 04/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/065,997

Applicant(s)

CUDDY, FREDRIC T.

Examiner

Christopher W. Fulton

Art Unit

2859

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-32 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-32 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 December 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 4, 6-8, 10, 12-15, 17, 26-30, and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by Burge.

The device as claimed is disclosed by Burge with a level indicator holder 15 with a level 20 having spring loaded 29 grip assemblies.

3. Claims 20 and 23-25 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Weise et al.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3, 5, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burge in view of Timmis.

The device as claimed is disclosed by Burge as stated in the rejection recited above for claims 1, 2, 4, 6-8, 10, 12-15, 17, 26-30, and 32, but lacks the level indicator being in the middle of the leveling device and the end points of the device having a recess to engage between the workpiece.

Timmis teaches using a bubble vial set in a recess in the middle of an elongate leveling device to better view the leveling device. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to move the level indicating means of Burge to the middle of the device as taught by Timmis to better view the level indicating means. Timmis also teaches using connecting ends with recesses to better engage the workpiece. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the engaging ends of Burge have a recess as taught by Timmis to better engage with the workpiece.

6. Claims 11, 16, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burge in view of Good.

The device as claimed is disclosed by Burge as stated in the rejection recited above for claims 1, 2, 4, 6-8, 10, 12-15, 17, 26-30, and 32, but lacks the device having a slot and pin arrangement to limit the expansion and contraction of the device.

Good teaches using a slot and pin arrangement to limit the expansion and contraction of a leveling device. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to add a slot and pin arrangement to the housing of Burge as taught by Good to limit the expansion and contraction movement of the leveling device.

7. Claims 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weise et al in view of Sekino et al.

The device as claimed is disclosed by Weise et al as stated in the rejection recited above for claims 20 and 23-25, but lacks the level indicator being compressible to releasably attach the device to a steering wheel.

Sekino et al teaches using a compressible level indicator to removably attach the device to a steering wheel. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the level indicator of Weise et al compressible as taught by Sekino et al to quickly removably attach the device to a steering wheel.

Response to Arguments

8. Applicant's arguments filed February 17, 2004 have been fully considered but they are not persuasive. The argument with respect to the method claims concerning the Weise reference is not persuasive since Weise teaches an alignment procedure and then a vehicle steering wheel centering method as stated in the abstract which is broadly speaking the method steps that are claimed.

9. Applicant's arguments with respect to claims 1-8, 10-19, and 26-32 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher W. Fulton whose telephone number is (571) 272-2242. The examiner can normally be reached on M-W & F 6:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is none.



Christopher W. Fulton
Primary Examiner
Art Unit 2859

CWF